

TO: Files

CC: San Diego Audit Committee

FROM: Willkie Farr & Gallagher LLP

RE: Interview of Richard Enriquez on April 18, 2006

DATED: April 21, 2006

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On April 18, 2006, Sharon Blaskey and Michael Shapiro, in Willkie Farr & Gallagher LLP's capacity as counsel to the Audit Committee, interviewed Richard Enriquez from the City of San Diego Metropolitan Wastewater Department, at the City Administration Building, 202 C Street in San Diego, in a conference room on the third floor. Johnny Giang from KPMG also attended the interview. Mr. Enriquez was not represented by counsel.

The following memorandum reflects my thoughts, impressions, and opinions regarding our meeting with Richard Enriquez, and constitutes protected attorney work product. It is not, nor is it intended to be, a substantially verbatim record of the interview.

### *Warnings*

Ms. Blaskey began the interview by explaining the circumstances and purpose of the City of San Diego's (the "City") creation of the Audit Committee, noting that information obtained during the course of the interview would be used, if relevant, in the Audit Committee's eventual report. Ms. Blaskey explained that Willkie does not represent Mr. Enriquez and, thus, statements made during the interview are not covered by the attorney-client privilege. Nonetheless, we would be treating the information obtained during the interview as confidential, covered by the work-product privilege during the investigation, but any such privilege would likely be lost with the release of the Audit Committee's report. Ms. Blaskey asked that Mr. Enriquez keep the interview confidential. Ms. Blaskey further explained that, if requested, we would provide information from the interview to the SEC, the U.S. Attorney's Office or the City's outside auditor, KPMG, so it is important that Mr. Enriquez be accurate and truthful. Ms. Blaskey emphasized that Mr. Enriquez should seek clarification of any question at any time.

### *Background*

Ms. Blaskey asked Mr. Enriquez to discuss his work background. Mr. Enriquez stated that he has worked for the City for thirty years, beginning as a Council aide to Councilman Jim Bates, then working in Human Resources for five to six years on the Comprehensive Employment Training Act Program, then for the Parks and Recreation department, then waste management, and since 1994, for the Metropolitan Wastewater Department (the "MWWD"). He received a B.A. from the University of San Diego and a Masters Degree from the University of New Mexico. He worked for four years in the area of contract compliance addressing race and gender participation issues. In that capacity, his role was to ensure that the City complied with

minority hiring requirements. He worked for seven or eight years in the Parks and Recreation department, where he was involved with refining park standards and dealing with development issues. When he first joined waste management, he worked on trash/recycling issues and studied budgets for waste management. When he joined the MWWD in 1994, he worked on Clean Water grants for construction of wastewater facilities. He said he had very little knowledge of grants and their requirements initially, but he received a lot of on the job training. He is currently, and has been for over a decade, a Grants Administrator. Hedy Griffiths had the job before him and she helped train him when he started because she was familiar with federal grants. He dealt with Jim Putman, Director of Financial Assistance at the State Water Resources Control Board (the "SWRCB"), and worked very closely with Dan Little at the SWRCB about eligibility for grants.

### ***Reporting Structure***

Ms. Blaskey asked Mr. Enriquez who he reported to as Grants Administrator and who reported to him. He said that when he first became Grants Administrator, he reported to Clay Bingham, who was then the Supervising Management Analyst, who in turn reported to Bill Hanley, Deputy Director of the MWWD. Mick Gammon later replaced Bingham in his responsibilities over grants (and some other funds) but Bingham stayed on in his same capacity to deal with other financial issues. Margaret Haggerty, Assistant Grants Administrator, as well as Deborah Tarry and Steve Larson reported to Mr. Enriquez.

### ***Education and Responsibilities as Grants Administrator***

Ms. Blaskey asked Mr. Enriquez to discuss his responsibilities as Grants Administrator. He said that when he first became Grants Administrator, his job responsibilities included applying for and administering grants of Federal and State agencies, and dealing with payment requests and reimbursements for monies owed. There were already existing MWWD grants when he first took over the position. Ms. Blaskey asked whether he reviewed the grant terms of those that existed when he started. He said he did read the grants and the terms. He stated that he followed the way things were done in the past and that the State was helpful in familiarizing him with the details, forms, and documentation required. If an eligibility decision was questioned by the State, he would find out why and review the situation. Ms. Blaskey asked Mr. Enriquez if he read the grant policy manual. He recalled that he would read relevant sections of grant policy manuals involving Clean Water Act grants and said that the old grant policy manual was published by the State and applied to all grants at that point in time. He said he reviewed the grant sections of the policy manual regarding eligibility decisions, how to apply, forms, technical requirements, and substantive requirements where applicable, but did not review the whole manual because it was not applicable in its entirety. He asked former employees for help and would call the State frequently with questions. He said the main issue regarding grants was "allowability," whether the project could be performed under a Clean Water Act grant, and "eligibility," what one can or cannot perform with that particular project.

### ***Clean Water Program***

Ms. Blaskey asked Mr. Enriquez to discuss the Clean Water Program. He recalled that when the Clean Water Program was developed by the City, it was created to build infrastructure to comply with the Clean Water Act. The program evolved into the creation of the

MWWD in 1996. The MWWD had responsibility for sewer systems for the whole metro area and all Participating Agencies ("PA's").

### *Clean Water Grants*

Ms. Blaskey asked Mr. Enriquez to discuss his involvement with Clean Water Act grants. He said that they were a vehicle by which the City received money to upgrade its systems. The State subsidized a portion of the Federal grants and administered them. Typically, the City would apply to the State for a grant and the City had to provide a match of its own funds. The Federal government paid 55% and the State paid 12% and, in addition, the Federal government also gave the State money to administer the program. The Clean Water Act grant program ended in 1994 or 1995 but existing grants continued to be active. He noted that in general the grants themselves have conditions written into the text of the grant agreements that need to be complied with. He said that generally, he remembered the State raising questions about certain programs, which questions the City had to address, but the City and State never reached an impasse.

The State would have to approve proposals for the City to receive funds and would also have to approve various steps or "milestones," after the project was funded. A year after the project was completed, there was a one year certification in which the State verified that what was proposed to be built actually was. He said that State and City inspectors would evaluate the project and report to the State Water Resources Control Board addressing the work plan and achievements. The project must operate to the operational and technical standards previously set in the grant manual. Ms. Blaskey asked Mr. Enriquez if the one year certification discussed compliance with grant/loan conditions. Significantly, he said that the report that was completed did not address the City's compliance with grant conditions. Mr. Enriquez stated that at the very end of the process, the City received a letter saying that the grant or loan was closed and that the City had complied with all loan or grant conditions.

### *SRF*

Ms. Blaskey asked Mr. Enriquez to discuss the State Revolving Fund ("SRF") loans. He said that during the mid-1990's the Federal government transitioned away from Clean Water Act grants and instead created a program whereby it made grants to the State to loan money to the Cities which were the SRF loans. He noted that the State modeled the SRF loans after the grant program but the rigid requirements for the grants were relaxed. He said the grants required much more review and oversight, including eligibility and allowability decisions. When asked if he reviewed the SRF policies (as amended from time to time), Mr. Enriquez stated that he reviewed all three editions of the SRF policies containing the State's guidelines and he would and did call the State if he had any questions about guideline requirements. During his tenure, the City received eight loans and in the past few months received another. Mr. Blaskey asked Mr. Enriquez whether the SRF agreements are all the same. He said that except for the fact that the SRF form changed in 2002 regarding subordination, the agreements were "cookie cutter" and only the amount and description of each project differed. He said there were no changes in the agreements regarding the revenue program guidelines. Ms. Blaskey asked Mr. Enriquez who within the City was responsible for signing the SRF Agreements. He said that when he became a Grants Administrator, the Deputy City Manager, George Loveland, signed the SRF agreements, and now Richard Haas (Deputy Chief of Public Works) does so.

Mr. Enriquez said that the State reviews the conditions of the SRF agreement and the supporting documentation, and that during construction, the onus is on the City to submit progress reports and close out reports including the one year certification process. It is the duty of the City to supply accurate information to the State upon which the State can rely.

Mr. Enriquez was shown Exhibit 1, a November 2, 2000 SRF Loan agreement, Contract No. 00-826-550-0. Ms. Blaskey asked Mr. Enriquez how SRF loans are applied for. He said that during the application process, he submitted plans and specifications for each project. When applying for a loan, a solicitation letter was sent for potential applicants to place their projects on a priority list. Each potential applicant identified the projects that could be SRF-funded. He noted that in wastewater, almost all projects could be funded with SRF loans. He said he would put about 100 projects on a priority list and the regional board would administer the priority list. He would submit his application to the local regional board and the board would review the application and forward it to the SWRCB. Each project he listed that was placed on the State's priority list received a number. The State would then accept applications on a first-come first-serve basis for the projects. After Mr. Enriquez was shown the agreement and asked to describe specific sections, Ms. Blaskey asked Mr. Enriquez to discuss his knowledge of the State's requirements as they are contained in the SRF loan agreements. He said that Section 11 of the SRF loan agreement involved a dedicated source of revenue which meant one had to demonstrate the ability to pay. Section 17 involved the user charge system and he said that Financing Services, including Kahlie, Hanley and Bingham, were supposed to verify that the City's system was correct. Ms. Blaskey asked Mr. Enriquez if he recalled being told that the user charge system satisfied the State's requirements. He did not recall any conversation in which he was told that the user charge system satisfied the State's requirements. He recalled such a conversation in 2005 because the *Shames* lawsuit was being reported on in the newspaper.

Ms. Blaskey asked Mr. Enriquez if the SRF loans required an approved revenue plan. He stated that when applying for an SRF loan or grant, the applicant needed to say it had an approved revenue plan. When asked about this requirement, Mr. Enriquez then said an applicant needed to have a final revenue plan when the project was 90% funded but had to have a "draft," at minimum, when the applicant applied. He said the City was never denied a loan because it did not have a revenue plan but he knew that for SRF grants and loans, a revenue plan was required.

### ***Revenue Program Guidelines and Revenue Plan***

Mr. Enriquez was shown Exhibit 2, a 1996 Policy for Implementation ("The Guidelines"). Ms. Blaskey asked Mr. Enriquez if he is familiar with The Guidelines. He said he has seen them before. The City had an approved revenue program on file with the State when he began working at MWWD.

Mr. Enriquez was shown Exhibit 3, a March 30, 1990 document entitled, "Wastewater Rate Study and Financial Plan and Revenue Program" (the City's last approved revenue plan prior to 2004). Ms. Blaskey asked Mr. Enriquez if he is familiar with this document. He said he had seen it before and had reviewed it generally. He explained that small cities do a separate revenue plan for each individual project. Large cities have one plan for the

whole user system. "Draft" revenue plans are for cities doing small projects. Because San Diego is a large city, it had to have a revenue plan for the whole user system.<sup>1</sup> He said that a Cost of Service Study ("COSS") would lead to a new revenue plan but noted that he did not work on revenue plans; Financing Services did. He said he discussed the need for a revenue plan with Mick Gammon because while he only needed a draft plan to obtain an application for SRF monies, he knew that there was not yet one and that he needed a final plan by the time of completion of the project or by the time it was 90% completed.

Mr. Enriquez was shown Exhibit 4, a July 24, 1996 letter from Ronald Blair to Richard Enriquez re: "Draft Revenue Program Submittal - - City of San Diego (Centrifuge Dewatered Biosolids Storage Facility), Clean Water Grant Program Project No. c-06-1092-310." Ms. Blaskey asked if the document dealt with the Clean Water Act grant. He said that the grant discussed in Exhibit 4 is not a Clean Water Act grant and is funded by the State with a portion paid by the Federal government. He said that at the time he received Exhibit 4, he believed a new revenue plan was being worked on and that Montgomery was the consultant working on it. However, he said he needed to know the status of the revenue program so as to ensure compliance with the SWRCB Revenue Program Guidelines. He recalled asking about the status of the revenue program and being told that a COSS was being conducted and would lead to a new revenue plan. When Ms. Blaskey asked with whom he had these conversations, he said probably Mick Gammon and Bill Hanley (his superiors) and that the conversations probably occurred in 2000. He recalls telling them that in order to close out the SRF loans, the City would need a final revenue plan. He later said he recalled conversations with Gammon about complying with the revenue plan submission requirement and thought these conversations took place when the loans started to close out. The issue did not get resolved, although he was told that it was being worked on. Around 2000, he spoke with Hanley and Gammon about the revenue plan. In 1999-2000 loans started becoming eligible to close. Hanley told him that he had a conversation with Blair and said "Blair knows we're working on this." Mr. Enriquez recalled saying to Gammon that it was "good" that the revenue plan was getting worked on. In 2000, he asked Gammon about the revenue plan progress but Gammon said he had not heard about the status of the revenue plan and would follow up on this issue. He said Financing Services and maybe Hedy Griffiths' section (billing) would work on the revenue plan and would work on meeting these types of State requirements. Ms. Blaskey asked Mr. Enriquez to discuss his communications with the State about the City's need for a final revenue plan. He recalled telling the State that the City was working on a new revenue plan, in the context of discussions about submitting facility plans.

Mr. Enriquez said that at the end of a project, the State had a checklist of items that needed to be completed to receive full funding and that if something was missing, the applicant would not get paid beyond 90%. Regarding what he would submit to the State to satisfy the draft revenue plan requirement, Mr. Enriquez said he believes at the beginning of his involvement with the SRF program, he submitted Exhibit 3, the Wastewater Rate Study and Financial Plan, along with an explanation of how the City met the requirements to sustain wastewater collection. After that initial submission, he thinks he simply told the State in

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<sup>1</sup> It appears that Mr. Enriquez may have been confused at this time by the terminology and/or purpose of a draft revenue plan.

applications and correspondence that the plan was "on file." He said that Dan Little at the SWRCB told him that the City had a revenue plan on file. He said he was concerned because he needed to have a final revenue plan approved.<sup>2</sup>

Mr. Enriquez was shown Exhibit 5, a September 18, 1991 letter from Ronald Blair to Charles Yackly re: "Final Revenue Plan Approval - - City of San Diego, Clean Water Grant Project No. C-06-1092-210, -510, -520, -530 and -540," which granted the City approval of its 1990 revenue plan. Ms. Blaskey asked Mr. Enriquez if he had seen this letter previously. He said that he may have seen the letter before and noted that Charles Yackly was "the grants person on the water side" and that Trina Blake worked for Yackly. When Ms. Blaskey asked when he first learned that a COSS was being conducted to update the revenue plan, he said in 2000. Mr. Enriquez did not indicate whether this COSS was the Montgomery-led revenue plan work he had discussed previously in the interview.

### *Discussions with the State regarding Noncompliance*

Ms. Blaskey asked Mr. Enriquez to describe the City's discussions with the State regarding the City's noncompliance. Mr. Enriquez said that years went by and he expected to receive a letter from the State questioning the City's noncompliance but it did not arrive until 2003. He first learned of the potential consequences of not having an approved revenue plan around the time the State put the City on notice in 2003. He stated that he understood City staff were discussing the plan for implementation of strength-based billing ("SBB") with the State during this 1999-2001 time period. In 2000-2001, he believes he submitted the last loan application to date and continued to check with Gammon about the revenue plan. He noted that the City stopped applying for loans until certain subordination language could be worked out. He said that since the time he learned of the revenue program issue, the City did not submit a loan application. In response to Ms. Blaskey asking if the City had not applied because of the revenue program issue, he said the two have nothing to do with each other and that the City did not submit loan applications because of budget constraints. He noted that the City did apply for other grants.

### *Obligation to Tell the State of Noncompliance*

Ms. Blaskey asked Mr. Enriquez if he felt he had an obligation to tell the State of the City's noncompliance. Mr. Enriquez said he did not believe he had an obligation to tell the State that the revenue program was being modified in 2002, even though the City continued to receive grant and loan proceeds. He said he followed all requirements to get the loans and expected that if the State had an issue with the user charge system, it would let him know at application approval time or thereafter. He may not have alerted the State about the revenue plan issue, specifically the fact that the City was not in compliance with proportionality requirements. He said he wanted a final revenue plan in place and understood from his superiors that the State had been alerted that a plan was being worked on.

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<sup>2</sup> It appeared that Mr. Enriquez may not have had a clear sense of what the rules required to be submitted, nor a clear recollection of what actually was submitted by the City, for a draft or final revenue plan.

Since the City had been successful in obtaining eight loans, he did not think there were problems and believed the State would notify the City if there was a problem, just like the State did on other issues. He believed that if the State was unaware of the City's noncompliance, the City had an obligation to bring it to the State's attention. Nonetheless, he said he would have done so if he knew the State was unaware.

### ***Strength Based Billing***

Ms. Blaskey asked Mr. Enriquez to discuss the State's guidelines as they pertain to SBB. He said that years ago, SBB was mentioned in a request from Blair. He asked Griffiths' group (billing) for the answer to that request because he (Mr. Enriquez) would not have known that information, and responded on the MWWD's behalf. How SBB worked was not his business and he was not involved. He knew, maybe as early as the mid to late 1990's, that SBB involved charging users based on the composition of the sewage, and that SBB was addressed in the revenue plan guidelines. He said he did not deal with the specifics of the revenue plan or its development but believed that the PA's group did that. He said he had no specific conversations about BOD and SBB with anyone but that he did know that billing was supposed to be based on strength. While he knew BOD/COD was required to be billed, he did not know what BOD or COD meant. He believed he first learned of the SBB requirement when he started asking when the revenue plan would be completed. While he was compiling information about *Shames* for Bromfield he first learned what SBB entailed. While he did not know how the COSS related to SBB, he did know that it needed to be completed to create the revenue plan.

Mr. Enriquez was shown Exhibit 6, a September 30, 1994 letter from Ronald Blair to Jack McGrory re: "Revenue Program Review – City of San Diego, Clean Water Grant Project No. C-06-1092." No specific questions were asked regarding this exhibit. Mr. Enriquez was also shown Exhibit 7, a September 3, 1997 memo from Mick Gammon to Dave Schlesinger re: "SRF Loan Status." He recalled seeing Exhibit 7 and also recalled a meeting with the State's SRF staff, including Dan Little, and maybe Jim Putnam and others, as well as engineers Ann Sasaki and Jim Wageman, about potential projects and their allowability. Ms. Blaskey asked Mr. Enriquez if SBB was discussed during this meeting. He did not recall being asked about SBB. As discussed earlier, he knew SBB was an element of the revenue plan (but not what it meant) and thinks it was addressed in 1997. He knew the City met the requirements for submittal of the revenue plan.

Ms. Blaskey asked Mr. Enriquez who in the City would have been involved with SBB and if he knew whether those entities informed the State of the City's noncompliance. He said that the PA's, Financing Services, and the people working on the COSS were involved with SBB. If these groups were working with the State, he had an expectation they would inform the State about the noncompliance issues.

Mr. Enriquez was shown Exhibit 8, a September 22, 1997 letter from Ronald Blair to Hedy Griffiths re: "Approval of Draft Revenue Program - - City of San Diego, State Revolving Fund (SRF) Loan Projects Nos. C-06-4119-310, C-06-4119-410 and C-06-4119-510. He thought the handwriting on the letter may be Griffiths'. Ms. Blaskey asked Mr. Enriquez what his understanding was at the time regarding the City's need for a final revenue plan. He said that he understood at that time that for the listed projects there was an approved revenue plan that met the necessary requirements for the facility plan step but that the City would need a

final approved revenue plan eventually. He recalled that his response to Blair satisfied Blair's requirements regarding ordinances or resolutions that needed to be passed. Enriquez noted that he was never turned down by the SWRCB for SRF monies and next heard about SBB years later during the *Shames* litigation.

### ***Meeting with SWRCB***

Mr. Enriquez was shown Exhibit 9, an August 18, 1997 letter from Mick Gammon to Farouk Ismail re: "State Revolving Fund Loan Program, City of San Diego Applications, Revenue Program Issues." He said that he met with the SWRCB in 1997. He recalled the letter and noted that the initials "RJE" on it meant that he wrote the letter. When asked about the second paragraph that discusses the PA's and states "On July 1, 1997, the City of San Diego initiated Strength Based Billing with its participating agencies...", he said the paragraph was provided to him by Griffiths. He thought it was accurate at the time, even though it failed to mention that the City's users were not using SBB, because he did not know at the time about City users being charged differently from the PA's.

### ***Request for Council Action ("1472")***

Mr. Enriquez was shown Exhibit 10, Resolution No. 297722 adopted March 17, 2003. Ms. Blaskey asked Mr. Enriquez to explain a "1472." He said that a 1472 provides information to the Council and asks the Council for a resolution and ordinance. The text that accompanies the request provides some background information. Typically, Council members and their aides are briefed while representatives of the City Manager's Office are present. He recalled that for this Resolution, there was a presentation of items and questions were asked. He noted that he did not attend but Hanley did.

### ***May 19, 1999 Letter***

Mr. Enriquez was shown Exhibit 11, a May 19, 1999 letter from Ted Bromfield to Dorothy Jones, copying Jenna Magan, William Hanley, Richard Enriquez, Mary Vattimo, and Dennis Kahlie. Mr. Enriquez described that the letter involved a loan requirement for dedicated sources of revenue and did not deal with the compliance issue. Bromfield worked with Jones, who was legal counsel for the SWRCB. Ms. Blaskey asked Mr. Enriquez to describe his involvement with Ted Bromfield. He said that Bromfield was the attorney from the City who wrote the resolutions and ordinances. His contact with Bromfield occurred when he needed an ordinance, resolution or legal opinion regarding rights of property owners.

### ***Requirements for Draft Revenue Program***

Mr. Enriquez was shown Exhibit 12, a January 31, 2002 email from Ron Blair to Richard Enriquez re: "Requirements for draft revenue program." He recalled seeing it and stated that it described the issue of sewer rate structure. When asked by Ms. Blaskey, he said he did not know specifically what was meant by item number three, "On what basis are these increased costs passed on to the City's residential, commercial and industrial wastewater dischargers? What portion and on what basis are these increased costs passed on to the surrounding agencies receiving wastewater treatment from San Diego?" Ms. Blaskey asked Mr. Enriquez how he would be in a position to respond to this email. He said he would probably



have spoken with Gammon about the email, who in turn would have discussed the issues with Hanley. He believed Hanley would have spoken with the PA group, probably with Griffiths, about replying to Blair. Ms. Blaskey asked whether he would have expected to receive accurate information from them. He said he had an expectation he would receive accurate and truthful information.

Mr. Enriquez was then shown Exhibit 13, a February 11, 2002 email from Richard Enriquez to Ron Blair, Hedy Griffiths, Mick Gammon and Bill Hanley re: "Requirements for draft revenue program." This email was Mr. Enriquez's response to Mr. Blair's questions in Exhibit 12. Ms. Blaskey asked Mr. Enriquez where the information about SBB came from. Mr. Enriquez said that while he transmitted this response, he thought he must have gotten the information from Hedy Griffith's group, and he did not understand the specifics of it as he did not deal with the topic himself. When asked by Ms. Blaskey, he stated that he thought at the time that all of the responses were accurate and based on the best information he had.

Mr. Enriquez was shown Exhibit 14, a January 31, 2002 email from Mick Gammon to Bill Hanley re: "Fwd: Requirements for draft revenue program." He had seen the email before. He said there was a need for a revenue plan and it was not related to SBB. Ms. Blaskey asked Mr. Enriquez if he had any discussions about Blair's questions regarding SBB. He said he probably had a conversation with Gammon about Blair's questions and raised the issue of the need for a revenue plan again. He believes he again questioned Gammon about why the revenue plan was not finalized in response to this email. Gammon expressed frustration and responded that he was hearing from Hanley that people were "working on it." Ms. Blaskey asked Mr. Enriquez if he expected to be informed if the City was out of compliance with guidelines or contract provisions. He said that he would have expected to be informed by Gammon if the City was out of compliance with loan requirements, but was not so informed.

### ***Was Information Withheld?***

Ms. Blaskey asked Mr. Enriquez whether he felt information was purposely withheld from him. He did not feel information was being intentionally withheld but admitted that it took a long period of time (from 2000-2004) to inform him of the details about the rate problem. He said he received bits and pieces of information over time regarding residential versus commercial users rates but did not put all of the information together until the *Shames* lawsuit. He first learned during the *Shames* lawsuit that residential users were allegedly not being billed appropriately. He did not know how the City billed its users, and only knew generally that *Shames* alleges that it was not fair to bill commercial and residential users in a certain way, and the City should be billing all users including a COD parameter. He noted that the new compliant rate structure was approved by the Council before the *Shames* case was filed.

### ***COSS***

Ms. Blaskey asked Mr. Enriquez generally what he knew about the COSS and whether he had heard that there were multiple COSS's. He recalled Gammon told him that the COSS had to do with Kelco's rates. He was not aware of multiple COSS's, but from his own involvement in the *Shames* litigation, he knew Black & Veatch was involved with the COSS. He was not familiar with PinnacleOne or Chester or with the fact that they both did a COSS.

### ***Provision of Grants/Loan Information***

Mr. Enriquez was shown Exhibits 15 and 16. Exhibit 15 is a March 15, 2004 email from Maureen Brungardt to Bill Hanley copying Richard Enriquez, re: "Verification of Grant/Loan Info in Memo to Mayor & Council," attaching a list of grants and loans. Exhibit 16 is a March 16, 2004 email from Richard Enriquez to Dennis Kahlie copying Maureen Brungardt re: "Grants Loans Info," attaching a list of grants and loans with handwritten notes. Maureen Brungardt worked with him and handled the billing part of reimbursements. Ms. Blaskey asked what memo is referenced in Exhibit 15, he said he did not know. He said that Kelly Salt left him a voicemail asking for a list of grants and loans for a report she was preparing for the Council. Ms. Blaskey asked if Salt's request of him was typical. He said that while it was not a typical request, it was usual to receive various requests for status updates. Ms. Blaskey asked Mr. Enriquez if he was aware the information he provided to Salt was for a closed session meeting. He said he was not. He said he probably saw the memo referred to in Exhibit 15 or at least the part of it regarding grants at some point, but he could not specifically recall. When asked by Ms. Blaskey whether he would have expected Salt to show the memo to him so he could verify it for accuracy, he responded in the affirmative.

Regarding Exhibit 16, a March 16, 2004 email from Richard Enriquez to Dennis Kahlie copying Maureen Brungardt re: "Grants Loans Info," attaching a list of grants and loans with handwritten notes, Mr. Enriquez said he did not recognize the handwriting. Regarding the list of "grants," he explained: BOR is Bureau of Reclamation, EPA is Environmental Protection Agency, NadBank is North American Development Bank, and "State" is State grants. Mr. Enriquez said the document listed all of the grants and loans he worked on, closed out, or audited, but did not include those grants and loans originating before his time.

### ***Receipt of 2003 Blair Letter***

Ms. Blaskey asked Mr. Enriquez to discuss his thoughts regarding the City's receipt of the 2003 letter from Blair that said the City was out of compliance with State guidelines. He said he already knew noncompliance could lead to the ultimate threat of repayment and thought it was possible that the grants would be recalled. The letter showed that the State was serious about the need for a revenue plan. He had conversations prior to receipt of the letter about the fact that the grants could be recalled and other possible repercussions. Mr. Enriquez recalled saying that the City would be "brought on the mat" at some point and he was unsure what would happen. He recalled speaking with Gammon and Hanley about the revenue plan but does not know whether he told them the loans could be pulled. He noted that the State was not being aggressive about the noncompliance until Blair issued the 2003 letter. When he received the Blair letter, he thought that someone must have really screwed up and guessed it must have been Kahlie's fault since Kahlie did not get the revenue plan done.

### ***State's Knowledge of Noncompliance***

Ms. Blaskey asked Mr. Enriquez about the State's knowledge of the City's noncompliance. Mr. Enriquez said that today he is aware that the State was under a

misimpression. He said that Blair never told him that he was confused nor did anyone from the City tell him so until the *Shames* litigation.

### ***Involvement with City and Outside Auditors***

Mr. Giang asked Mr. Enriquez about his involvement with the City's auditors and its outside auditors. Mr. Enriquez said that he provided spreadsheets to the City's auditors. Kahlie's group would have had communications with KPMG; Hanley may have had contact with them but he and Gammon did not.

### ***Sewer Revenue Bond Offerings***

Ms. Blaskey asked Mr. Enriquez to discuss his involvement with the sewer revenue bond offerings. He said that he had no involvement in providing information for the offerings. Ms. Blaskey asked Mr. Enriquez if he was asked during the bond offerings if the City was in compliance with its grant and loan covenants. He said that he was not asked if the City was in compliance with loan requirements. He added that compliance would fall under his responsibilities. Mr. Enriquez said he was never asked for input as to whether the City was in compliance with State and Federal laws. When asked by Ms. Blaskey what outside disclosure counsel was told about noncompliance and what the rating agencies were told, he said he was unaware.

### ***Grant Proceeds***

Mr. Enriquez was shown Exhibit 17, an October 26, 2004 email from Joan Talbert to Melody Carpenter, Mark Nassar, Tracy McCraner, Susan Reynolds, Orrie Irwin and Richard Enriquez re: "Coastal Low Flow Ph II, Grant Pymt. Req. #1." The email stated that providing sewer funding to projects was conditioned upon reimbursements being returned to their departments. Mr. Enriquez described that Mark DeSar was an engineer on the project funded by the EPA. Joan Talbert was an accountant at the City who assisted DeSar on payment requests. Ms. Blaskey asked Mr. Enriquez to explain the content of this email. He said that Talbert did not want to return grant proceeds to the MWWD. However, since the project discussed in Exhibit 17 is funded by the MWWD, Mr. Enriquez believed the grant proceeds should be returned to it. According to Mr. Enriquez, the internal auditor, Ed Wochaski, agrees with Mr. Enriquez that proceeds should be refunded to the MWWD.

### ***Shames***

Mr. Enriquez was shown Exhibit 18, a February 16, 2005 memo from Richard Enriquez via Clay Bingham to Ted Bromfield re: "Submittal of Information Re: *Shames v. City of San Diego*, Superior Court No. 831539 Plaintiff's Special Interrogatories and Requests for Assistance." Ms. Blaskey asked Mr. Enriquez to discuss his involvement in preparing this document. He said he drafted the response to one of the requests (number 5).

### *Conclusion*

Ms. Blaskey asked Mr. Enriquez whether he had seen or heard of any illegal, unethical or improper conduct on the part of any City employees. He said, "no." Ms. Blaskey requested that Mr. Enriquez keep the contents of the interview confidential to maintain the integrity of the process. She said that Mr. Enriquez should contact us if he recalls any new information. Additional conversations took place with Mr. Enriquez after his interview was conducted from time to time regarding grants and loans and those conversations were very helpful.

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